

REMARKS

Claims 1-8, 11-17, 19-25, and 41-44 are pending in the present application. Claims 1-6, 8, and 11 stand rejected as obvious over Brick et al, in view of Oplinger et al., applicants' admission, FTC reference and either one of Singh et al. and Ramanathan et al. Claims 14-16, 20-23, and 25 stand rejected as obvious in further view of Wood. Claims 7 and 24 stand rejected as obvious in further view of Rockland. Claims 12, 13, 17, and 19 stand rejected as obvious in further view of Gupta. Claims 41-44 stand rejected in further view of Wood and Burling et al.

Applicants respectfully traverse these rejections.

There are three independent claims pending in the present application: Claims 1, 14, and 41. All of the independent claims include the following steps:

taking a field tenderometer reading of a sample Cicer bean; and
harvesting green Cicer beans when the sample tenderometer reading is
between 91 and 149.

The Office Action does not identify any prior art reference that teaches or suggests taking field tenderometer readings of Cicer beans. In addition, the Office Action does not identify any prior art reference that teaches or suggests harvesting green Cicer beans when the sample tenderometer reading is between 91 and 149. Therefore, all of the pending claims include two steps that are neither taught or suggested by any of the cited prior art references.

The claims are therefore believed to be patentably distinct over the prior art and in condition for allowance.

Field Tenderometer Reading of a Sample Cicer Bean

Regarding the field tenderometer reading of a sample Cicer bean, the Office Action does not address this limitation with respect to Claims 1-13.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOINSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206 682 8100

With regard to Claims 14-17, 19-25, and 41-44, the Office Action states in paragraph 3:

The claims further call for the use of a tenderometer and specific readings therein to determine the harvesting of the green Cicer beans of the instant invention.... Clearly one skilled in the art would have turned to tools such as tenderometers to aid in determining the time of harvest for the desired bean product...It would have been further obvious to have employed the tenderometer as a tool for determining the particular degree of maturity of a bean and use same to facilitate the time of harvesting the desired bean (in this case a green Cicer bean).

However, the Examiner has not shown, nor are applicants aware of, any prior art use of a tenderometer on a sample of Cicer beans. It is respectfully urged that if it would have been obvious to take a tenderometer reading of a green Cicer bean that there would be some prior art reference to such a step. Moreover, the Office Action does not indicate, nor is there any basis for asserting, that a sample tenderometer reading in the range of 91 and 149 would be desirable for determining when to harvest the Cicer bean.

Cited Art is Not Applicable

The only prior art reference cited for the steps of taking a tenderometer reading and harvesting at a specified range of tenderometer reading is the Food Technology Corporation ("FTC") reference to the Model TU-12 Tenderometer. However, the FTC reference, on its own face, specifically precludes the use proposed in the Office Action. The first line of the first full paragraph states, "Designed exclusively for peas . . . for determining maturity in fresh peas." (emphasis added). Therefore, the FTC reference is clearly not applicable to use on the Cicer bean, which is clearly not a pea.

CONCLUSION

All of the pending claims are directed to the commercial processing of green Cicer beans, and recite two steps that are not found in any of the cited prior art reference: (1) taking a field

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206 682 8100

tenderometer reading of a sample Cicer bean; and (2) harvesting green Cicer beans when the sample tenderometer reading is between 91 and 149.

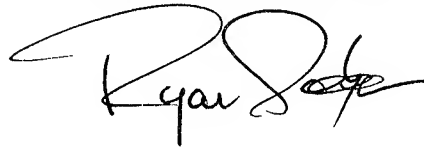
The only reference cited for a tenderometer is expressly "exclusively for peas" and therefore not suitable for use with Cicer beans.

The claims are therefore believed to be patentably distinct from all of the prior art of record. Reconsideration of the rejection of the pending claims is requested.

Applicants wish to thank the Examiner for the telephonic interview on August 28, 2007, in which the Examiner confirmed that a response had not been filed by August 22, 2007. A Petition for Revival is being filed concurrently with this response. The Examiner is encouraged to call the undersigned directly if there are any questions regarding the present application that might be productively addressed telephonically.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

A handwritten signature in black ink, appearing to read "Ryan Dodge", with a stylized flourish at the end.

Ryan E. Dodge, Jr.
Registration No. 42,492
Direct Dial No. 206.695.1724

RED;jlg

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206 682 8100